UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/C.12/1996/SR.5
28 May 1996

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 May 1996, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Spain (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16066 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Spain (continued) (E/1994/104/Add.5; E/C.12/1995/LQ.5/Rev.1; written replies, document without a symbol distributed in English and Spanish by the delegation of Spain)

1. At the invitation of the Chairperson, the members of the delegation of Spain took places at the Committee table.

2. The CHAIRPERSON said that the Spanish delegation wished to present orally information on the four articles of the Covenant (7, 8, 9 and 12) which were not dealt with in the report under consideration. After hearing that presentation, the Committee would have to decide whether an oral statement on the articles not covered in the report would be sufficient.

3. Mr. GONZALEZ DE LINARES (Spain) said he realized that the Committee would not necessarily be able to accept an oral presentation in place of a written text; his delegation was in a position to provide the Committee with a written text covering articles 7, 8, 9 and 12 of the Covenant.

4. The CHAIRPERSON thanked the representative of Spain for his offer but pointed out that the text in question existed only in Spanish and could not be understood by all members of the Committee. He invited the Spanish delegation and the members of the Committee to begin by continuing their discussion of article 10 of the Covenant.

5. Mrs. BONOAN-DANDAN said she was pleased to note that Spain had a number of laws, measures or programmes on violence against women, including domestic violence, and asked for information and statistics on the implementation of those laws and programmes. She wondered whether women, including Gypsy women, were aware of those laws and invoked them when they were victims of violence, and, more generally, what problems were being encountered in implementing the laws. It would be interesting to know whether Spanish women were really benefiting from the provisions of existing legislation.

6. The CHAIRPERSON invited the Spanish delegation and the members of the Committee to consider the implementation of article 11 of the Covenant.

7. Mr. CEAUSU said that, in its written replies concerning article 11, the Spanish Government had replied only to questions 19 and 22 on the list of issues (E/C.12/1995/LQ.5/Rev.1); it had not replied to questions 20, 21 or 23.

8. Mr. NUÑEZ (Spain) said that he would respond orally to questions 20, 21 and 23. With regard to question 20 on measures taken to give real effect to the right to housing and the regulations governing eviction, the Autonomous Communities were responsible for housing policies, but it was the State which determined the general conditions for the exercise of the right to housing and, in particular, the financial conditions governing the lending system.

The procedures and goals of housing policy were contained in a plan. The housing plan for 1992-1995 had just ended. Among State intervention measures envisaged under that plan had been the granting of fixed-rate loans between lending institutions and the Ministry of Public Works, Transport and Environment, which was the ministry responsible for housing in Spain, and assistance for home buyers and tenants. During the period covered by the plan, housing assistance had been provided in 507,000 cases, which was slightly more than the number expected. State housing-related expenditure had risen from 63,000 billion pesetas in 1986 to 92,000 billion pesetas in 1993.

9. In November 1995, the new housing plan for 1996-1999 had been adopted. It emphasized stability and security in the occupation of a dwelling; for example, it had been decided that leases would have a minimum duration of five years. Evictions must conform to a precise legal procedure and were placed under the direct supervision of the courts.

10. Turning to question 22, he said that legal, customary inhabitants of a building who were evicted as a result of construction or development projects had the right to be relocated in accordance with a number of regulations. In the case of renovation of old urban districts, tenants whose apartments were to be demolished must be relocated during the period of construction and offered housing in the new building erected on the site.

11. With regard to question 23 on the steps taken by the Government to protect the most vulnerable groups in regard to their right to adequate food, he said that the Spanish social system covered virtually the entire population. The very poor were entitled to a non-contributory allowance, as had been stated at an earlier meeting. Individuals or groups not covered by the social system were assisted by the Autonomous Communities, which for the most part gave disadvantaged persons a minimum subsistence wage, by the social services of the communes, or through social programmes implemented with the help of NGOs; they also had access to soup-kitchens. He hoped that the Committee's expectations had been met by the information which he had provided in reply to the three questions on article 11 not covered in the written text.

12. The CHAIRPERSON asked the members of the Committee if they wished to receive further information on issues related to article 11 which had been dealt with in the written text.

13. Mrs. BONOAN-DANDAN said that she was not really satisfied with the written answers to question 19 on the percentage of the homeless population and the number of inhabitants of shanty towns. Information such as that provided in paragraphs 100 and 101 of the report was very general, and it was very unfortunate that no statistics were given. The same was true of the reply to question 21 on the situation of the Gypsy population in relation to the right to housing. What was the meaning of the statement in the written reply that 22 per cent of Gypsies lived in dwellings which met normal standards and 28 per cent lived in substandard housing (shanty towns, old urban neighbourhoods, etc.)? It would be useful to have specific information on the housing assistance measures provided to the Gypsy population over the past five years. She also asked for information on the situation of women,

particularly women living alone and Gypsy women, with regard to the right to housing. Were women aware of their right to housing and, in general, of the rights set forth in the Covenant.

14. Mr. GRISSA, referring to paragraph 92 of the report, asked how, and up to what age, neglected children were protected by the State.

15. Mr. KOUZNETSOV said the second part of the written replies stated that several criteria were used in providing financial assistance to needy students. He wondered what was meant by the statement that one of those criteria was the legal status of the educational institution concerned.

16. Mr. WIMER ZAMBRANO said that he wished to make a general comment regarding the situation of the Gypsies. Everyone knew that the Gypsies were essentially a marginal people and that, in all the countries where they were found (e.g. Romania), it was very difficult to determine their living conditions or to gather statistics on them. Before going into detail, it would be useful for the Spanish delegation to explain briefly the situation of the Gypsies in Spain and their relations with the State.

17. Mr. CEAUSU said that he welcomed the additional information on the implementation of article 13 provided in document E/1994/104/Add.5, which constituted a thorough study of the Spanish education system. He asked for an explanation of the statement in paragraph 154 of the report that the first cycle of university education was shorter than the second cycle, whereas logic suggested that the reverse would be true. He requested more statistics, in particular on the granting of scholarships, in order to see what financial efforts the State was making in that area, and asked what percentage of students received scholarships. With regard to distance education at the university level, Spain seemed to be ahead of other European countries and might offer a model for other countries. What social sectors were benefiting from that education and how many people were studying and obtaining diplomas through distance education?

18. Mr. ADEKUOYE asked for more information on the results of the special programme implemented by the authorities to lower the drop-out rate, particularly among Gypsy children.

19. Mr. GRISSA requested further information on paragraph 123 of the report. He wondered what responsibilities the Autonomous Communities had with regard to teaching of the regional languages and whether they were free to teach in Basque or Catalan.

20. Mr. THAPALIA asked whether the Government had taken steps to ensure that human rights instruction was provided at all educational levels, and in the armed forces and the police, in connection with the United Nations Decade for Human Rights. He also wondered whether the Spanish Government planned to accede to the optional protocol (currently being drafted) to the International Covenant on Economic, Social and Cultural Rights.

21. Mr. NUÑEZ (Spain) said that the previous reports of Spain had included replies to the questions relating to articles 7, 8 and 9 of the Covenant and invited Mr. González Escolar, a representative of the Spanish Ministry of

Labour, to outline the new developments relating to those articles which had occurred since the submission of Spain's second periodic report.

22. Mr. GONZALEZ ESCOLAR (Spain), on the basis of the guidelines in document E/C.12/1991/1 regarding the preparation of reports on the implementation of the Covenant, summarized a document without a symbol relating to those articles which he had received the previous day from his Government and which had not yet been submitted to the Committee.

23. On article 7, he said that Spanish legislation reflected the eight ILO conventions relating to wages, health and safety in the workplace, and equal opportunity. In Spain, wages were set after collective bargaining between representatives of workers and employers. Those wages were higher than the inter-trade minimum wage, which was 2,164 pesetas a day in 1996. A recent document which his Government had sent to the Committee showed the movement of wages since the submission of Spain's second periodic report and of the average wages for the various sectors of the workforce. With reference to question 2 (c) of document E/C.12/1991/1 relating to article 7, he said that there was no inequality in remuneration for work of equal value. Infractions of the law were dealt with by the labour inspectorate or, as a last resort, the courts.

24. With regard to health and safety in the workplace, he said that the 1995 Act on risk prevention in the workplace repeated the provisions of ILO Convention No. 155 and several Community directives. The Act applied to both the public and private sectors and included the requirement that workers should be consulted on health and safety questions. The document which Spain had submitted included statistics on accidents in the workplace and work-related illness over the past 10 years. As a result of the implementation of measures in that area three years previously, there had been a reduction in the number of such accidents and illnesses.

25. The Labour Code, which had been approved by royal decree in 1995, included provisions establishing the length of the working day, rest periods and public holidays. The working week was limited to 40 hours and there must be a 12-hour break between the end of one working day and the beginning of the next. Overtime could not exceed 80 hours a year. There was a different wage scale for night work. A minimum of one and a half rest days a week was obligatory, and the number of public holidays was set at a maximum of 14 a year. The Act also specified the reasons for which workers were authorized to take time off, for example, to get married or engage in union activities.

26. With regard to the questions relating to article 8 of the Covenant, he said that Spain had ratified three ILO Conventions. There had been no change in the applicable legislation on the right to strike, which had been in force since 1977.

27. The CHAIRPERSON drew the delegation's attention to the fact that, in accordance with the Covenant, it was within the Committee's mandate to consider the question of the enjoyment in practice of social, economic and cultural rights in States parties and any problems which had arisen in that regard. He therefore asked the delegation to highlight any problems caused by implementation of the various articles of the Covenant.

28. Mr. GONZALEZ ESCOLAR (Spain) described the changes in the law concerning trade unions since the submission of his country's second periodic report. The 1985 Organization Act relating to trade union freedom established the principle of trade union freedom, in accordance with the international provisions in force, and the right to form a union without prior authorization. Only members of the armed forces and the Guardia Civil and practising judges, magistrates and prosecutors did not have that right. Similarly, senior civil servants, such as those of executive director rank, could not be given decision-making positions in unions. Police officers could join only professional organizations, at the national or international level. Trade union law considered members of local police forces as civil servants, subject to the same rules as civil servants. A union could be neither suspended nor disbanded without a court decision. Unions had the right to form federations or confederations and to join international organizations.

29. An Act of 1987 specified various procedures for union participation in the civil service, for example, with regard to appointments and the organization of recruitment examinations. Act No. 790 of 1990 dealt with collective bargaining and union participation in the determination of working conditions for civil servants. In 1991-1992, union elections in the administration had been the subject of a new framework agreement between the administration and the unions, which governed union representation at the national level and in the Autonomous Communities. In 1993-1994, a new law had abolished the official period required for the organization of union elections in the civil service. Referring to the question relating to the implementation of article 9 of the Covenant in document E/C.12/1991/1, he said that Spain was a party to ILO Convention No. 102 and, in that capacity, regularly sent that organization reports on implementation of that Convention.

30. In reply to question 2, he said that all the benefits listed were included under the social security system. On question 3, there had been progress in the field of social protection since the submission of the second periodic report. For example, all Spaniards over a certain age had a right to social security. The document without a symbol which had been addressed to members of the Committee and which he was summarizing included detailed documentation on that very complex question.

31. In reply to question 4 of the revised general guidelines (E/C.12/1991/1) relating to the implementation of article 9 of the Covenant, he said that the percentage of the national budget spent on social security had risen from 11.44 per cent in 1988 to 15.87 per cent in 1995.

32. In connection with question 5, he said that supplementary social security was provided in three ways: an optional scheme associated with the general social security scheme, a private social insurance scheme, and another private investment and pension plan.

33. In response to question 6, he said that there was no legal discrimination between men and women with regard to social security. All employees were covered by a social security system which was set up in such a way that no group as such was excluded from social security benefits.

34. On question 7, he said that several measures had been taken to strengthen and stabilize the social security system: increase in the level of contributions, reassessment of contributions in relation to the consumer price index, increase in the minimum contribution periods for entitlement to social benefits, link between the contribution rate and the real wage, etc. Health and medical coverage had been extended to all citizens.

35. Mr. NUÑEZ (Spain) added that his delegation was aware of the shortcomings in Spain's implementation of articles 7, 8 and 9 of the Covenant. However, it had tried to give the Committee as full an explanation and as much information as possible, in particular on questions relating to the unemployment rate, which was particularly high among women and was continuing to rise, especially in certain Autonomous Communities. His delegation had also tried to describe the measures which the Government had taken in an attempt to solve that problem.

36. With regard to the right to organize, Spain had ratified ILO Convention No. 87 and was committed to implementing its provisions. His delegation would provide more detailed information on recent problems associated with limitations on the right to organize and the right to strike.

37. The CHAIRPERSON invited the Spanish delegation to reply to the written question on the implementation of article 12 of the Covenant, which concerned the right to health.

38. Mr. GONZALEZ DE LINARES (Spain) said that since its previous report, Spain had taken very important steps to improve its health services; as a result, 98.5 per cent of the population had public health-care coverage, including persons without financial resources, who were not covered by social security. All the public health services had been incorporated into the national health system in accordance with an integrated health-care concept. Management of the health-care system had been completely decentralized and turned over to the Autonomous Communities, which received 50 per cent of the national health-care budget and had been given a wide range of responsibilities in the health field.

39. New benefits had been added to cover oral hygiene and dental care, particularly for children, pregnant women and the elderly; coverage had also been added for voluntary termination of pregnancy, sterility treatment and psychiatric care.

40. Spain's health-care policy was defined by the General Health Care Act of 25 April 1986 and by Decree No. 137/84 on basic health-care structures, which established the basis for integrated, ongoing and permanent primary health care. Those laws should make it possible for Spain to ensure health for all by the year 2000, in accordance with the goal set by WHO. The laws currently in force were a concrete embodiment of the fundamental right to health care, which was recognized for all Spaniards and for foreigners residing in Spain. The law guaranteed free choice of general or specialist medical practitioners and recognized the right to free exercise of the health-care professions.

41. The National Health Plan of the Ministry of Health and Consumer Affairs defined areas of priority, which included ageing, AIDS and cancer; health-care expenditure had risen by 1.1 per cent of GDP between 1985 and 1993. The infant mortality rate had declined by over 20 per cent during the same period and was currently 7.1 per thousand among children under one year of age, one of the lowest rates of any industrialized country. The systematic vaccination of infants against diphtheria, tetanus, whooping cough and poliomyelitis had resulted in a significant drop in the death rate associated with those illnesses; 89.7 per cent of children under two years of age had been vaccinated. The overall mortality rate had declined sharply in Spain, where no one was more than 20 minutes away from a health-care centre or more than 60 minutes from a hospital.

42. With regard to housing, in 1991 only 0.7 per cent of dwellings had been without running water. The structure and organization of the health system guaranteed effective health care to people over 65 years of age, a group which received particular attention from the health services. In that regard, life expectancy was high: 80.5 years for women and 73.3 years for men.

43. Since health-care services were continuing to develop and becoming universal, there had been no decline in that area. However, the Government was taking steps to enhance health care by further improving the health services, by making more effective use of medical technology and by improving professional training, diagnostic procedures, and information and evaluation systems.

44. Mr. ALVAREZ VITA considered that the additional information provided orally by the Spanish delegation was very satisfactory. By providing that information, Spain had fulfilled all its obligations with regard to its third periodic report (E/1994/104/Add.5). He nevertheless requested details on the percentage of elderly persons and AIDS patients in the Spanish population, the reasons for the difference in life expectancy between men (73 years) and women (80 years) - in the 1930s and 1940s life expectancy had been greater for men, and the reference year for the maternal mortality rate of 63 per 100,000 mentioned by the representative of Spain.

45. Mr. GONZALEZ DE LINARES (Spain) said that, of Spain's 40 million inhabitants, there had been 36,315 AIDS patients as of December 1995; the mortality rate of that group was 60 per cent and 7,000 new cases were diagnosed every year. He confirmed that the life expectancy of women was currently greater than that of men, as was the case in most neighbouring countries. The maternal mortality rate in 1980 and 1992 had been 63 and 19 per 100,000 births respectively.

46. Mrs. AHODIKPE, referring to the right of every individual to equitable and favourable working conditions, asked whether adolescents could be employed in unhealthy or arduous jobs, for example, in family firms or rural undertakings. What was the Government doing to avert that practice and was there a minimum wage for working adolescents?

47. Mrs. BONOAN-DANDAN (Rapporteur for Spain) said that she found the procedure followed in the consideration of the third periodic report of Spain to be inefficient and inadequate: the absence of written replies to the questions concerning articles 7, 8, 9 and 12 was unfortunate.

48. Referring to a communication from a trade union in the Basque country, which stated that apprentices under 18 years of age apparently received lower wages than workers over 18 years of age, she asked how that exclusively age-based system of remuneration could be compatible with articles 2 and 7 of the Covenant. The communication also referred to a definite inequality between men and women, with regard not only to employment but also to promotion prospects. She asked for information on the situation of women in Spain with regard to the rights set forth in article 7 of the Covenant and to sexual harassment. The communication further stated that, in 1995, 1 million people had suffered accidents in the workplace and that 1,356 of them had died. It would seem that 80 per cent of employers did not observe the laws on health and safety in the workplace. What was the Government doing to remedy that situation and what problems was it encountering in enforcing the law?

49. Turning to article 9 of the Covenant, she asked whether it was true that apprentices and part-time workers, primarily women, were not entitled to any unemployment benefits even though, in accordance with ILO recommendation No. 150, which Spain had signed, those people should have the same rights as other workers.

50. The above-mentioned communication had emphasized the problems encountered in developing the Basque language, particularly in work relations. According to the trade union which had sent the communication, that situation could be remedied only if the Basque people were recognized as a nation, with collective rights, so that Basques could participate, in their own language, in international agreements between free and sovereign peoples.

51. Mr. GRISSA asked what groups were most affected by AIDS, what the precise causes of transmission of the virus were and what preventive measures were being taken.

52. Mr. CEAUSU said that he had found the information provided orally by the Spanish delegation to be quite complete and that, in his opinion, the Committee could declare itself satisfied with the procedure followed. However, he requested further information on the exercise of the right to strike in Spain and on the number of strikes that took place in a given year. One of the representatives of Spain had said that everyone on the labour market was covered by the social security system. He asked what was meant by "people on the labour market", from what age and what level of training one was considered to be in that category, and whether registration with an employment agency was required.

53. Mr. AHMED, referring to the right to unionize, asked how the union of the Guardia Civil, whose members were forbidden to engage in any union activity under the Constitution, could in fact exist since it had been banned by the Constitutional Court and was not officially registered.

54. It was his understanding that the national health system covered foreigners. He wondered whether that included only nationals of the European Union or all categories of foreigners, including tourists legally staying in Spain.

55. It was also his understanding that all the Autonomous Communities had the right to teach their own language along with Castilian. He asked whether they were permitted to teach only their own language, or whether they could do so only on condition that they also taught Castilian. One of the Spanish Government's replies mentioned the preservation of mother tongues, "such as Arabic in Catalonia". For whom, in that Autonomous Community, was Arabic the mother tongue?

56. Mr. ADEKUOYE asked how many legal proceedings were initiated each year for offences against the law on the right to work of minors under 18 years of age and how many convictions resulted.

57. With regard to article 9 of the Covenant, he asked for more information on the situation of individuals who did not meet the requirements for receiving social security benefits.

58. With regard to article 12, concerning the right to health, he asked for statistics on the incidence of cardiovascular disease, cancer, diabetes and tuberculosis during the previous five years.

59. Mr. RATTRAY said that the Spanish delegation's presentation on the situation of social security in Spain did not show whether there had been an increase or a decrease in the benefits provided, although States parties to the Covenant were required, in accordance with article 2, to take steps with a view to achieving progressively the full realization of the rights recognized therein. It appeared that, in 1993, steps had been taken to reduce coverage for pharmaceutical products. What was the situation exactly? According to an International Monetary Fund (IMF) report, the period during which a person who had recently entered the labour market was ineligible for unemployment benefit had been increased in 1992 from 6 to 12 months, while the amount of benefit had been reduced by 12 per cent and the maximum period of eligibility had been cut by one third. If that was the case, he asked what the reasons for those reductions were and how they could be reconciled with the obligations set forth in article 2, paragraph 1, of the Covenant.

The meeting rose at 1 p.m.